IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH JANUARY 2007 / 14TH POUSHA, 1928

Crl.MC.No. 29 of 2007()

ST.1123/2005 of J.F.C.M. COURT, NO.4, KOCHI

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PETITIONER: ACCUSED:

GOKULDAS, S/O.KRISHNANKUTTY,
AGED 35, KARUKAYIL HOUSE, PAZHAYANNUR DESOM,
TALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

THE STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/01/2007 ALONG WITH CRMC NO.30 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.Nos. 29 & 30 of 2006

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Dated this the 4th day of January, 2007

O R D E R

The common petitioner faces indictment in two separate prosecutions, both initiated by the same complainant under Section 138 of the N.I. Act. Cognizance has been taken by the learned Magistrate. The petitioner did not appear before the learned Magistrate. He therefore finds himself in the unenviable predicament of warrants of arrest issued by the learned Magistrate chasing him. He has come to this court with this petition praying that the learned Magistrate may be directed to release him on bail when he appears and applies for bail. According to him his absence earlier was not contumacious and was on account of reasons beyond his control.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No

special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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